IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.7893 OF 2004

Bhavna Mansukh Sangoi ..Petitioner.
Vs.
Mansukh Lalji Sangoi ..Respondent.

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MS. P.G. Bhatia for the petitioner.
Mr. R.T. Lalwani for the Respondent.

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CORAM : DR.D.Y.CHANDRACHUD, J.

31st August, 2005.

P.C. :

1. This Petition is directed against orders passed by the Family Court on 18th May, 2004 and on 18th June, 2004. The Petitioner and the Respondent were married on 2nd May, 1976. They have two children, a son who was born on 24th July, 1978 and a daughter born on 10th September, 1981. Both the children have attained majority. The daughter who resided with the Petitioner after the parties ceased to live together was married on 3rd December, 2003. The Petitioner and the Respondent have been staying separately since 23rd March, 1997. The Petitioner filed an application under Section 18 of the Hindu Adoptions & Maintenance Act, 1956 in the Family Court at Bandra for claiming

maintenance in the amount of Rs.15,000/- per month for herself and her daughter Khayati, who was then a minor. An order was passed by the Family Court on 13th April 2000 granting an amount of Rs.3,000/- per month to the Petitioner and Rs.2,000/- per month for the minor daughter pending the disposal of the proceedings. The Respondent filed his written statement and moved an interim application for setting aside the interim order dated 13th April, 2000. This application was dismissed. The Respondent has thereafter instituted proceedings for divorce before the Family Court which are also pending. On 23rd July, 2002 on an application by the Petitioner, the Family Court struck off the defence of the Respondent in the Petition for maintenance until 50% of the arrears were paid within eight weeks. It is common ground that the Respondent did not comply with the order for payment of 50% of the amount. The Respondent took out an interim application for cancellation of the interim order of maintenance dated 13th April, 2000. Since the Respondent had not complied with the order dated 23rd July, 2002, the Petitioner moved an application for stay of the divorce proceedings. On 18th May, 2004 the Family Court dismissed the application for stay of the divorce proceedings and by a further order dated 18th June, 2004 reduced the maintenance

that was awarded to the Petitioner from Rs.3,000/- to Rs.2,500/- per month. Since the daughter was married on 3rd December, 2003, the direction in regard to the payment of maintenance to her in the amount of Rs.2,000/- per month was also vacated. The Family Court was of the view that since the defence of the Respondent has been struck off in the application for maintenance filed by the Petitioner, a stay of the divorce proceedings could not be granted on the ground that the Respondent had failed to comply with the order for maintenance.

2. At the hearing of this Petition, counsel appearing for the Respondent submitted that the Respondent is ready and willing to deposit the arrears of maintenance, but that some time may be granted for the aforesaid purpose. During the course of the hearing, parties have arrived at a consensual arrangement. The Consent Terms are taken on record and marked as 'X'. By and as a result of the Consent Terms, the Respondent has undertaken to pay 25% of the arrears before 30th September, 2005, an additional 25% before 31st October, 2005 and the balance in six equal monthly installments between November 2005 and April 2006. The Respondent has in addition also undertaken to pay the interim

maintenance granted to the Petitioner at the rate of Rs.2,500/- per month with effect from September 2005 until the proceedings are disposed of by the Family Court. The parties have also agreed that the trial shall commence after the deposit of the initial arrears of 50%. The Family Court shall endeavour to complete the trial within a period of one year thereafter. In the event the Respondent commits any single default in payment of the outstanding dues as agreed, further proceedings before the Family Court shall remain stayed in the proceedings for divorce. Undertakings accepted.

3. In the event that the Respondent pays the entire arrears of maintenance in accordance with the terms which have been agreed upon between the parties and continues to comply with the order for payment of the monthly maintenance as and when it falls due, the order striking out the defence of the Respondent shall stand vacated and the Respondent shall be entitled to defend the proceedings. Since no other point has been raised in this Petition, the Petition shall stand accordingly disposed of.